



1774

PATENT  
Customer Number 22,852  
Attorney Docket No. 3063.0396-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John EBY et al.

Application No.: 09/749,033

Filed: December 28, 2000

For: SURFACE COVERINGS HAVING  
A NATURAL APPEARANCE AND  
METHODS TO MAKE A  
SURFACE COVERING HAVING  
A NATURAL APPEARANCE

Group Art Unit: 1774

Examiner: B. Shewareged

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JAN 07 2003  
TC 1700

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed after the mailing date of a first Office Action on the merits but before a Notice of Allowance or Final Office Action for the above-referenced application.

Further to the IDS filed on August 17, 2001, this submission brings to the Examiner's attention information primarily resulting from litigation with Domco Tarkett and Armstrong World Industries, Inc., both in the U.S. District Court for the District of Delaware, Civil Action Nos. 01-388 and 00-876, respectively.

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Consequently, this information may be material or relevant to the patentability of the instant claims. See M.P.E.P. 2001.06(c).

A check for the required fee under 37 CFR § 1.17(p) is enclosed herewith.

A copy of the information uncovered as a result of the previously mentioned litigations and available to Applicants, are included herewith. Applicants respectfully request that the Examiner carefully consider each listed document and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the disclosed information is material or constitutes "prior art." If the Examiner applies the information as prior art against any claim in the present application and Applicants determine that the information does not constitute "prior art" under United States law, Applicants reserve the right to present to the Patent Office the relevant facts and law regarding the appropriate status of such information.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the disclosed information, should it be applied against the claims of the present application.

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If there is any fee due in connection with the filing of this Statement, please  
charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
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Dated: January 3, 2003

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